

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 MICHAEL J. YUN  
Deputy Attorney General  
4 State Bar No. 292587  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9453  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2016-023600

14 **DOUGLAS JAY KIVIAT, M.D.**

**DEFAULT DECISION  
AND ORDER**

15 16100 Paseo Del Sur  
16 San Diego, CA 92127-6155

[Gov. Code, §11520]

17 **Physician's and Surgeon's Certificate No.**  
**G 89144,**

18 Respondent.

19  
20 **FINDINGS OF FACT**

21 1. On or about August 17, 2017, Complainant Kimberly Kirchmeyer, in her official  
22 capacity as the Executive Director of the Medical Board of California, filed Accusation No. 800-  
23 2016-023600 against Douglas Jay Kiviat, M.D. (respondent) before the Medical Board of  
24 California, Department of Consumer Affairs, State of California.

25 2. On or about April 25, 2012, the Medical Board of California (Board) issued  
26 Physician's and Surgeon's Certificate No. G 89144 to respondent. The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought

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1 herein and will expire on February 28, 2018, unless renewed. (Exhibit 1: Respondent's  
2 Certificate of Licensure.)<sup>1</sup>

3 3. On or about August 17, 2017, an employee of the complainant agency, served by  
4 Certified Mail a copy of the Accusation No. 800-2016-023600, Statement to Respondent, Notice  
5 of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and  
6 11507.7 to respondent's address of record with the Board, which was and is 16100 Paseo Del Sur,  
7 San Diego, CA 92127-6155. A copy of the Accusation, the related documents, and Declaration  
8 of Service are attached as Exhibit 2, and are incorporated herein by reference.

9 4. Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c).

11 5. On or about August 19, 2017, the aforementioned documents sent to respondent via  
12 certified mail at his Address of Record were delivered and received. On or about August 22,  
13 2017, the Medical Board of California received the certified return receipt from U.S. Postal  
14 Service that showed a successful delivery of the certified mail containing the aforementioned  
15 documents sent to respondent. A copy of the certified return receipts is attached as Exhibit 3,  
16 and is incorporated herein by reference.

17 6. Government Code section 11506 states, in pertinent part:

18 "...

19 "(c) The respondent shall be entitled to a hearing on the merits if the  
20 respondent files a notice of defense, and the notice shall be deemed a specific denial  
21 of all parts of the accusation not expressly admitted. Failure to file a notice of  
22 defense shall constitute a waiver of respondent's right to a hearing, but the agency in  
23 its discretion may nevertheless grant a hearing."

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
25 of a true and correct copy of the Accusation, and has therefore waived his right to a hearing on

26  
27 <sup>1</sup> The exhibits referred to herein, which are true and correct copies of the originals, are  
28 contained in the separate accompanying "Default Decision Evidence Packet" and will be  
identified by the specific exhibit numbers.

1 the merits of the charges and allegations contained in Accusation No. 800-2016-023600. (Exhibit  
2 4: Declaration of Deputy Attorney General Michael Yun re: Notice of Defense.)

3 8. On or about September 1, 2017, Deputy Attorney General Michael J. Yun mailed a  
4 courtesy notice of default to respondent informing him that he had failed to submit a Notice of  
5 Defense, and if it was not received, a Default would be filed against him. Respondent did not  
6 send a Notice of Defense to Deputy Attorney General Michael J. Yun. (Exhibit 5: Courtesy  
7 Notice of Default from Deputy Attorney General Michael J. Yun.)

8 9. California Government Code section 11520 states, in pertinent part:

9 “(a) If the respondent either fails to file a notice of defense or to appear at the  
10 hearing, the agency may take action based upon the respondent’s express admissions  
11 or upon other evidence and affidavits may be used as evidence without any notice to  
12 respondent.”

13 “...”

14 10. Pursuant to its authority under Government Code section 11520, the Board finds  
15 respondent is in default. The Board will take action without further hearing and, based on  
16 respondent’s express admissions by way of default and the evidence before it, contained in  
17 Exhibits 1 through Exhibit 9, finds that the charges and allegations in Accusation No. 800-2016-  
18 023600, and each of them, separately and severally, are true and correct.

19 11. Section 2227 of the Code states:

20 “(a) A licensee whose matter has been heard by an administrative law judge of  
21 the Medical Quality Hearing Panel as designated in Section 11371 of the Government  
22 Code, or whose default has been entered, and who is found guilty, or who has entered  
23 into a stipulation for disciplinary action with the board, may, in accordance with the  
24 provisions of this chapter:

25 “(1) Have his or her license revoked upon order of the board.

26 “(2) Have his or her right to practice suspended for a period not to exceed one  
27 year upon order of the board.

28 ///

1           “(3) Be placed on probation and be required to pay the costs of probation  
2 monitoring upon order of the board.

3           “(4) Be publicly reprimanded by the board. The public reprimand may include  
4 a requirement that the licensee complete relevant educational courses approved by the  
5 board.

6           “(5) Have any other action taken in relation to discipline as part of an order of  
7 probation, as the board or an administrative law judge may deem proper.

8           “(b) Any matter heard pursuant to subdivision (a), except for warning letters,  
9 medical review or advisory conferences, professional competency examinations,  
10 continuing education activities, and cost reimbursement associated therewith that are  
11 agreed to with the board and successfully completed by the licensee, or other matters  
12 made confidential or privileged by existing law, is deemed public, and shall be made  
13 available to the public by the board pursuant to Section 803.1.”

14       12. Section 2234 of the Code, states, in pertinent part:

15           “The board shall take action against any licensee who is charged with  
16 unprofessional conduct. In addition to other provisions of this article, unprofessional  
17 conduct includes, but is not limited to, the following:

18           “(a) Violating or attempting to violate, directly or indirectly, assisting in or  
19 abetting the violation of, or conspiring to violate any provision of this chapter.

20           “...”

21       13. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
22 which breaches the rules or ethical code of the medical profession, or conduct which is  
23 unbecoming a member in good standing of the medical profession, and which demonstrates an  
24 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
25 575.)

26       14. Section 820 of the Code states:

27           “Whenever it appears that any person holding a license, certificate or permit  
28 under this division or under any initiative act referred to in this division may be

1 unable to practice his or her profession safely because the licentiate's ability to  
2 practice is impaired due to mental illness, or physical illness affecting competency,  
3 the licensing agency may order the licentiate to be examined by one or more  
4 physicians and surgeons or psychologists designated by the agency. The report of the  
5 examiners shall be made available to the licentiate and may be received as direct  
6 evidence in proceedings conducted pursuant to Section 822.”<sup>[2]</sup>

7 15. Section 821 of the Code states:

8 “The Licentiate’s failure to comply with an order issued under Section 820  
9 shall constitute grounds for the suspension or revocation of the licentiate’s certificate  
10 or license.”<sup>[3]</sup>

11 16. Respondent has subjected his Physician’s and Surgeon’s Certificate No. G 89144 to  
12 disciplinary action under sections 2227 and 821, of the Code, in that he failed to comply with an  
13 Order issued pursuant to section 820 of the Code, as more particularly alleged hereinafter (Exhibit  
14 6: Declaration of HQIU Inv. A.M.):

15 17. On or about July 5, 2016, the Medical Board’s Central Complaint Unit (CCU)  
16 received an anonymous complaint regarding respondent. The complaint alleged respondent is  
17 suffering from dementia brought on by Parkinson’s disease and exacerbated by a fall and  
18 subsequent concussion suffered in April of 2016. It further alleged respondent is paranoid and  
19 called the police claiming his wife is stealing from him. The complaint also suggested respondent  
20 was calling in prescriptions for himself and threatened his wife if she did not take him to pick up  
21 the medications. The anonymous complainant also stated respondent was urinating all over his  
22 ///

23  
24 <sup>2</sup> An Order compelling examinations pursuant to Section 820 complies with state procedural due  
25 process. (*Alexander D. v. State Board of Dental Examiners* (1991) 231 Cal.App.3d 92, 96-96.) Section  
26 820 also complies with constitutional privacy interests. (*Kees v. Medical Board of California* (1992) 7  
27 Cal.App.4th 1801, 1814.)

28 <sup>3</sup> The Court of Appeal has upheld the Board’s authority to discipline a licensee for failure to  
comply with an Order to submit to examinations. With regards to disciplinary action taken pursuant to  
Section 821, all that is relevant is that the licensee did not comply with the Order. (*Lee v. Board of  
Registered Nursing* (2012) 209 Cal.App.4th 793, 798.)

1 house, dismantled his computer, and slept on the hard drives as a result of his paranoia. The  
2 anonymous complainant suggested he/she is worried respondent might drug himself to death.  
3 (Exhibit 7: Anonymous CCU Complaint.)

4 18. On or about July 28, 2016, Health Quality Investigation Unit (HQIU) Investigator  
5 A.M. (Inv. A.M.) of California Department of Consumer Affairs spoke with respondent's wife  
6 J.K. who told her that respondent has been suffering from Parkinson's disease for five (5) years  
7 and that he has been living in an assisted living facility for three (3) days. (Exhibit 6.)

8 19. On or about August 1, 2016, Inv. A.M. received a certified copy of the San Diego  
9 Police Department Report No. 15002583. The report described respondent as a 65-year-old who  
10 has Parkinson's disease and walks with a cane. The report stated respondent left his home for a  
11 short walk and did not return home when expected. After a two-hour search by the police,  
12 respondent was found and reunited with his family. The report stated respondent may have some  
13 cognitive impairment that was not present prior to his disappearance. (*Id.*; Exhibit 8: San Diego  
14 Police Department Report No. 15002583.)

15 20. On or about August 5, 2016, Inv. A.M. sent respondent a letter to his address of  
16 record requesting contact regarding this investigation. (Exhibit 6.)

17 21. On or about October 3, 2016, respondent's wife J.K. called Inv. A.M. on the  
18 phone and provided the following information, in summary:

19 "Since she and Inv. A.M. last spoke, respondent had been kicked out of two  
20 assisted living facilities and is currently on his third. Respondent is writing  
21 prescriptions for himself. He wrote himself a prescription for an anti-parasitic  
22 medication, and today he wrote four more prescriptions for himself. Respondent is  
23 staying at Villa La Mesa assisted living facility. She feels horrible because she has  
24 had to put him in a home and cannot take care of him."

25 (*Id.*)

26 22. During the phone conversation, J.K. provided Inv. A.M. the address of the assisted  
27 living facility at which respondent then resided and the names of his doctors. (*Id.*)

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1 23. On or about October 4, 2016, when Inv. A.M. met her in person, J.K. provided  
2 the following information, in summary:

3 "Respondent was diagnosed with Parkinson's disease approximately  
4 seven years ago. He started to slowly show signs of the disease in the  
5 form of rigidity. Respondent suffers from rigidity. He has not practiced  
6 medicine in the physical sense since he stopped working at The Brooklyn  
7 Hospital. Afterwards, he continued to practice medicine providing expert  
8 opinions for insurance companies. He was eventually fired around June  
9 of 2015, from providing opinions because he became too slow in  
10 producing his reports. Things did not start to get bad until respondent fell  
11 on the ceramic tile in their home in San Diego. He fell and hit his  
12 shoulder. He fractured and dislocated the shoulder. When his condition  
13 got worse he began to self-medicate/self-prescribe. Respondent  
14 prescribed himself Rytary (Carbidopa and Levodopa), Apokyn an  
15 injectable, as well as Azilect, all of which are for Parkinson's disease.  
16 One of the side effects of Azilect is dementia. Around April 1, 2016, he  
17 fell again. She tried to get in-home help for him but respondent fired  
18 everyone she hired. His doctor prescribed Seroquel to help respondent  
19 calm down but he would not take it. The doctor suggested to her that she  
20 put it in respondent's food, so she did. When he found out, he asked her  
21 if she was "drugging him" and accused her of trying to poison him. In  
22 June 2016, he thought he heard someone upstairs so he got a laser pointer  
23 and his cane and went upstairs to search. She tried to tell him she was the  
24 only one upstairs."

25 (*Id.*)

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1       24. During the same meeting, J.K. provided Inv. A.M. the following additional  
2 information, in summary:

3           “In July, respondent was admitted to the Pomerado Hospital General  
4 Psychiatric Unit twice and the Palomar Hospital Psychiatric unit once.  
5 He wrote himself a prescription for an anti-parasitic medication because  
6 he believes he has a parasite. He is picking his nose to the point that it is  
7 bleeding and sore because he believes he is providing a sample of the  
8 parasite. He also believes he is being gassed with ketamine gas through  
9 the air vents at the home. She found an empty water bottle in his  
10 refrigerator in his room that was labeled with a date. Respondent had told  
11 her this was a sample of the room air with the ketamine. He also told her  
12 that the Filipino Mafia was after him.”

13       *(Id.)*

14       25. On or about October 4, 2016, J.K. provided Inv. A.M. with a copy of the physician’s  
15 report for residential care facilities for the elderly regarding respondent, signed by Dr. D.S. The  
16 report indicates respondent’s primary diagnosis is Dementia. The report further provided that  
17 respondent suffers from “the loss of intellectual function (such as thinking, remembering,  
18 reasoning, exercising judgment and making decisions) and other cognitive functions, sufficient to  
19 interfere with an individual’s ability to perform activities of daily living or to carry out social or  
20 occupational activities.” *(Id.)*

21       26. On or about October 6, 2016, Inv. A.M. sent respondent a letter requesting that he  
22 contact her to discuss his Medical Board investigation. The letter was mailed to respondent’s  
23 Address of Record and a copy of the letter was also sent to Villa La Mesa, the living assisted  
24 facility provided to her by respondent’s wife J.K. In the same letter and the copy of the letter,  
25 Inv. A.M. also requested that respondent sign releases for his medical records and requested that  
26 he consent to voluntary physical and mental evaluations. Inv. A.M. requested respondent to sign  
27 and return the agreement forms. In each of the two mails, she included a self-addressed stamped

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1 envelope and a copy of the Notice to Medical Consumer. A copy of the above-mentioned letter  
2 was also sent to respondent's wife J.K. as his power of attorney. (*Id.*)

3 27. On or about June 8, 2017, the Medical Board issued an Order Granting a Petition to  
4 Compel Physical and Mental Examinations of respondent ("820 Order"), pursuant to section 820,  
5 of the Code. (*Id.*)

6 28. On or about June 15, 2017, Inv. A.M. sent a letter notifying respondent of his  
7 physical and mental evaluations appointments including their respective dates, times, and  
8 locations. This letter was sent by HQIU via both certified mail and regular mail to respondent's  
9 Address of Record. (*Id.*)

10 29. Respondent's appointment for his 820 physical health evaluation was scheduled for  
11 June 27, 2017, at 9:00 A.M. with D.M., M.D. (Dr. D.M.). (*Id.*)

12 30. Respondent's appointment for his 820 mental health evaluation was scheduled for  
13 June 28, 2017, at 9:00 A.M. with M.K., M.D. (Dr. M.K.). (*Id.*)

14 31. On or about June 20, 2017, Inv. A.M. received a call from respondent's wife J.K. who  
15 told her angrily that she did not appreciate getting a "threatening letter and subpoena" from her.  
16 J.K. stated that she has to feed and shave respondent. When Inv. A.M. asked J.K. where  
17 respondent resides, J.K. told her respondent is at the Villa Rancho Bernardo Skilled Nursing and  
18 Memory Care Center ("Villa Rancho Bernardo"). (*Id.*)

19 32. On or about June 20, 2017, Inv. A.M. sent another letter notifying respondent of his  
20 physical and mental evaluation appointments including their respective dates, times, and  
21 locations, via both certified mail and regular mail to Villa Rancho Bernardo's address. Included  
22 in the mails was a copy of the 820 Order. (*Id.*)

23 33. On or about June 27, 2017, Inv. A.M. received a telephone call from Dr. Marquardt  
24 who told her that respondent failed to show up for his 9:00 A.M. appointment. (*Id.*)

25 34. On or about June 27, 2017, the letter that Inv. A.M. sent to respondent at the address  
26 of Villa Rancho Bernardo that his wife J.K. provided was returned undeliverable as addressed.  
27 (*Id.*)

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1       35. On or about June 28, 2017, Inv. A.M. received a telephone call from Dr. M.K. who  
2 told her that respondent failed to show up for his 9:00 A.M. appointment. (*Id.*)

3       36. On or about July 3, 2017, Inv. A.M. received a letter from Dr. M.K. stating that  
4 respondent did not attend his 820 mental health evaluation. (*Id.*)

5       37. On or about July 12, 2017, Inv. A.M. received via return mail a certified letter sent to  
6 respondent at his Address of Record. (*Id.*)

7       38. On or about July 17, 2017, Inv. A.M. received a letter from Dr. D.M. stating  
8 respondent did not attend his 820 physical health evaluation. (*Id.*)

9       39. As of August 8, 2017, Inv. A.M. had received no contact from either respondent, or  
10 his counsel, regarding the missed evaluation appointments. (*Id.*)

### 11                                   **DETERMINATION OF ISSUES**

12       1. Based on the foregoing findings of fact, respondent Douglas Jay Kiviat, M.D. has  
13 subjected his Physician's and Surgeon's Certificate No. G 89144 to discipline.

14       2. The agency has jurisdiction to adjudicate this case by default.

15       3. Pursuant to its authority under California Government Code section 11520, and based  
16 on the evidence before it, the Board hereby finds that the charges and allegations  
17 contained in Accusation No. 800-2016-023600, and the Findings of Fact contained in  
18 paragraphs 1 through 39, above, and each of them, separately and severally, are true  
19 and correct.

20       4. Pursuant to its authority under California Government Code section 11520, and by  
21 reason of the Findings of Fact contained in paragraphs 1 through 39, above, and  
22 Determination of Issues 1, 2, and 3, above, the Board hereby finds that respondent  
23 Douglas Jay Kiviat, M.D., has subjected his Physician's and Surgeon's Certificate  
24 No. G 89144 to disciplinary action in that respondent has failed to comply with an  
25 order issued under section 820, in violation of section 821, of the Code.

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**ORDER**

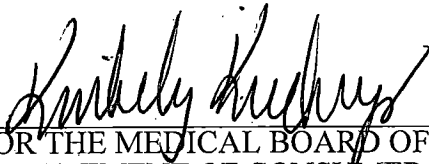
IT IS SO ORDERED that Physician's and Surgeon's Certificate No. G 89144, heretofore issued to respondent Douglas Jay Kiviat, M.D., is revoked.

If respondent ever files an application for relicensure in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license at the time that the application for relicensure or petition for reinstatement is filed.

Pursuant to Government Code section 11520, subdivision (c), respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on December 1, 2017, at 5:00 p.m.

It is so ORDERED November 2, 2017

  
\_\_\_\_\_  
FOR THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
KIMBERLY KIRCHMEYER  
EXECUTIVE DIRECTOR

1 XAVIER BECERRA  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 MICHAEL J. YUN  
Deputy Attorney General  
4 State Bar No. 292587  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9453  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO AUGUST 17 2017  
BY: [Signature] ANALYST

10 BEFORE THE  
11 MEDICAL BOARD OF CALIFORNIA  
12 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2016-023600

14 DOUGLAS JAY KIVIAT, M.D.  
16100 Paseo Del Sur  
15 San Diego, CA 92127-6155

ACCUSATION

16 Physician's and Surgeon's Certificate  
17 No. G 89144,

18 Respondent.

19  
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Medical Board of California.

24 2. On or about April 25, 2012, the Medical Board (Board) issued Physician's and  
25 Surgeon's Certificate No. G 89144 to Douglas Jay Kiviat, M.D. (respondent). The Physician's  
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on February 28, 2018, unless renewed.

28 ///

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1       5.     Section 2234 of the Code, states, in pertinent part:

2             “The board shall take action against any licensee who is charged with  
3     unprofessional conduct. In addition to other provisions of this article, unprofessional  
4     conduct includes, but is not limited to, the following:

5             “(a) Violating or attempting to violate, directly or indirectly, assisting in or  
6     abetting the violation of, or conspiring to violate any provision of this chapter.

7             “...”

8       6.     Unprofessional conduct under Business and Professions Code section 2234 is conduct  
9     which breaches the rules or ethical code of the medical profession, or conduct which is  
10    unbecoming a member in good standing of the medical profession, and which demonstrates an  
11    unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
12    575.)

13      7.     Section 820 of the Code states:

14            “Whenever it appears that any person holding a license, certificate or permit  
15    under this division or under any initiative act referred to in this division may be  
16    unable to practice his or her profession safely because the licentiate’s ability to  
17    practice is impaired due to mental illness, or physical illness affecting competency,  
18    the licensing agency may order the licentiate to be examined by one or more  
19    physicians and surgeons or psychologists designated by the agency. The report of the  
20    examiners shall be made available to the licentiate and may be received as direct  
21    evidence in proceedings conducted pursuant to Section 822.”<sup>[1]</sup>

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24    ///

25    ///

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26            <sup>1</sup> An Order compelling examinations pursuant to Section 820 complies with state procedural due  
27    process. (*Alexander D. v. State Board of Dental Examiners* (1991) 231 Cal.App.3d 92, 96-96.) Section  
28    820 also complies with constitutional privacy interests. (*Kees v. Medical Board of California* (1992) 7  
  Cal.App.4<sup>th</sup> 1801, 1814.)

1       8.    Section 821 of the Code states:

2               “The Licentiate’s failure to comply with an order issued under Section 820 shall  
3       constitute grounds for the suspension or revocation of the licentiate’s certificate or  
4       license.”<sup>[2]</sup>

5                               **FIRST CAUSE FOR DISCIPLINE**

6                               **(Failure to Comply with Order of Examination)**

7       9.    Respondent has subjected his Physician’s and Surgeon’s Certificate No. G 89144 to  
8       disciplinary action under sections 2227 and 821, of the Code, in that he failed to comply with an  
9       Order issued pursuant to section 820 of the Code, as more particularly alleged hereinafter:

10       10.   On or about July 5, 2016, the Medical Board’s Central Complaint Unit (CCU)  
11       received an anonymous complaint regarding respondent. The complaint alleged respondent is  
12       suffering from dementia brought on by Parkinson’s disease and exacerbated by a fall and  
13       subsequent concussion suffered in April of 2016. It further alleged respondent is paranoid and  
14       called the police claiming his wife is stealing from him. The complaint also suggested respondent  
15       was calling in prescriptions for himself and threatened his wife if she did not take him to pick up  
16       the medications. The anonymous complainant also stated respondent was urinating all over his  
17       house, dismantled his computer, and slept on the hard drives as a result of his paranoia. The  
18       anonymous complainant suggested he/she is worried respondent might drug himself to death.

19       11.   On or about July 28, 2016, Health Quality Investigation Unit (HQUI) Investigator  
20       A.M. (Inv. A.M.) of California Department of Consumer Affairs spoke with respondent’s wife  
21       J.K. who told her that respondent has been suffering from Parkinson’s disease for five (5) years  
22       and that he has been living in an assisted living facility for three (3) days.

23       12.   On or about August 1, 2016, Inv. A.M. received a certified copy of the San Diego  
24       Police Department Report No. 15002583. The report described respondent as a 65-year-old who  
25       has Parkinson’s disease and walks with a cane. The report stated respondent left his home for a

26               <sup>2</sup> The Court of Appeal has upheld the Board’s authority to discipline a licensee for failure to  
27       comply with an Order to submit to examinations. With regards to disciplinary action taken pursuant to  
28       Section 821, all that is relevant is that the licensee did not comply with the Order. (*Lee v. Board of  
Registered Nursing* (2012) 209 Cal.App.4th 793, 798.)

1 short walk and did not return home when expected. After a two-hour search by the police,  
2 respondent was found and reunited with his family. The report stated respondent may have some  
3 cognitive impairment that was not present prior to his disappearance.

4 13. On or about August 5, 2016, Inv. A.M. sent respondent a letter to his address of  
5 record requesting contact regarding this investigation.

6 14. On or about October 3, 2016, respondent's wife J.K. called Inv. A.M. on the  
7 phone and provided the following information, in summary:

8 "Since she and Inv. A.M. last spoke, respondent had been kicked out of two  
9 assisted living facilities and is currently on his third. Respondent is writing  
10 prescriptions for himself. He wrote himself a prescription for an anti-parasitic  
11 medication, and today he wrote four more prescriptions for himself. Respondent is  
12 staying at Villa La Mesa assisted living facility. She feels horrible because she has  
13 had to put him in a home and cannot take care of him."

14 15. During the phone conversation, J.K. provided Inv. A.M. the address of the assisted  
15 living facility at which respondent then resided and the names of his doctors.

16 16. On or about October 4, 2016, when Inv. A.M. met her in person, J.K. provided  
17 the following information, in summary:

18 "Respondent was diagnosed with Parkinson's disease approximately  
19 seven years ago. He started to slowly show signs of the disease in the  
20 form of rigidity. Respondent suffers from rigidity. He has not practiced  
21 medicine in the physical sense since he stopped working at The Brooklyn  
22 Hospital. Afterwards, he continued to practice medicine providing expert  
23 opinions for insurance companies. He was eventually fired around June  
24 of 2015, from providing opinions because he became too slow in  
25 producing his reports. Things did not start to get bad until respondent fell  
26 on the ceramic tile in their home in San Diego. He fell and hit his  
27 shoulder. He fractured and dislocated the shoulder. When his condition  
28 got worse he began to self-medicate/self-prescribe. Respondent



1 prescribed himself Rytary (Carbidopa and Levodopa), Apokyn an  
2 injectable, as well as Azilect, all of which are for Parkinson's disease.  
3 One of the side effects of Azilect is dementia. Around April 1, 2016, he  
4 fell again. She tried to get in-home help for him but respondent fired  
5 everyone she hired. His doctor prescribed Seroquel to help respondent  
6 calm down but he would not take it. The doctor suggested to her that she  
7 put it in respondent's food, so she did. When he found out, he asked her  
8 if she was "drugging him" and accused her of trying to poison him. In  
9 June 2016, he thought he heard someone upstairs so he got a laser pointer  
10 and his cane and went upstairs to search. She tried to tell him she was the  
11 only one upstairs."

12 17. During the same meeting, J.K. provided Inv. A.M. the following additional  
13 information, in summary:

14 "In July, respondent was admitted to the Pomerado Hospital General  
15 Psychiatric Unit twice and the Palomar Hospital Psychiatric unit once.  
16 He wrote himself a prescription for an anti-parasitic medication because  
17 he believes he has a parasite. He is picking his nose to the point that it is  
18 bleeding and sore because he believes he is providing a sample of the  
19 parasite. He also believes he is being gassed with ketamine gas through  
20 the air vents at the home. She found an empty water bottle in his  
21 refrigerator in his room that was labeled with a date. Respondent had told  
22 her this was a sample of the room air with the ketamine. He also told her  
23 that the Filipino Mafia was after him."

24 18. On or about October 4, 2016, J.K. provided Inv. A.M. with a copy of the physician's  
25 report for residential care facilities for the elderly regarding respondent, signed by Dr. D.S. The  
26 report indicates respondent's primary diagnosis is Dementia. The report further provided that  
27 respondent suffers from "the loss of intellectual function (such as thinking, remembering,  
28 reasoning, exercising judgment and making decisions) and other cognitive functions, sufficient to

1 interfere with an individual's ability to perform activities of daily living or to carry out social or  
2 occupational activities."

3 19. On or about October 6, 2016, Inv. A.M. sent respondent a letter requesting that he  
4 contact her to discuss his Medical Board investigation. The letter was mailed to respondent's  
5 Address of Record and a copy of the letter was also sent to Villa La Mesa, the living assisted  
6 facility provided to her by respondent's wife J.K. In the same letter and the copy of the letter, Inv.  
7 A.M. also requested that respondent sign releases for his medical records and requested that he  
8 consent to voluntary physical and mental evaluations. Inv. A.M. requested respondent to sign and  
9 return the agreement forms. In each of the two mails, she included a self-addressed stamped  
10 envelope and a copy of the Notice to Medical Consumer. A copy of the above-mentioned letter  
11 was also sent to respondent's wife J.K. as his power of attorney.

12 20. On or about June 8, 2017, the Medical Board issued an Order Granting a Petition to  
13 Compel Physical and Mental Examinations of respondent ("820 Order"), pursuant to section 820,  
14 of the Code.

15 21. On or about June 15, 2017, Inv. A.M. sent a letter notifying respondent of his physical  
16 and mental evaluations appointments including their respective dates, times, and locations. This  
17 letter was sent by HQIU via both certified mail and regular mail to respondent's Address of  
18 Record.

19 22. Respondent's appointment for his 820 physical health evaluation was scheduled for  
20 June 27, 2017, at 9:00 A.M. with D.M., M.D. (Dr. D.M.).

21 23. Respondent's appointment for his 820 mental health evaluation was scheduled for  
22 June 28, 2017, at 9:00 A.M. with M.K., M.D. (Dr. M.K.).

23 24. On or about June 20, 2017, Inv. A.M. received a call from respondent's wife J.K. who  
24 told her angrily that she did not appreciate getting a "threatening letter and subpoena" from her.  
25 J.K. stated that she has to feed and shave respondent. When Inv. A.M. asked J.K. where  
26 respondent resides, J.K. told her respondent is at the Villa Rancho Bernardo Skilled Nursing and  
27 Memory Care Center ("Villa Rancho Bernardo").

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1        25. On or about June 20, 2017, Inv. A.M. sent another letter notifying respondent of his  
2 physical and mental evaluation appointments including their respective dates, times, and  
3 locations, via both certified mail and regular mail to Villa Rancho Bernardo's address. Included  
4 in the mails was a copy of the 820 Order.

5        26. On or about June 27, 2017, Inv. A.M. received a telephone call from Dr. D.M. who  
6 told her that respondent failed to show up for his 9:00 A.M. appointment.

7        27. On or about June 27, 2017, the letter that Inv. A.M. sent to respondent at the address  
8 of Villa Rancho Bernardo that his wife J.K. provided was returned undeliverable as addressed.

9        28. On or about June 28, 2017, Inv. A.M. received a telephone call from Dr. M.K. who  
10 told her that respondent failed to show up for his 9:00 A.M. appointment.

11       29. On or about July 3, 2017, Inv. A.M. received a letter from Dr. M.K. stating that  
12 respondent did not attend his 820 mental health evaluation.

13       30. On or about July 12, 2017, Inv. A.M. received via return mail a certified letter sent to  
14 respondent at his Address of Record.

15       31. On or about July 17, 2017, Inv. A.M. received a letter from Dr. D.M. stating  
16 respondent did not attend his 820 physical health evaluation.

17       32. As of August 8, 2017, Inv. A.M. had received no contact from either respondent, or  
18 his counsel, regarding the missed evaluation appointments.

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**PRAYER**

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:


1. Revoking or suspending Physician's and Surgeon's Certificate No. G 89144, issued to respondent Douglas Jay Kiviat, M.D.;

2. Revoking, suspending or denying approval of respondent Douglas Jay Kiviat, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;

3. Ordering respondent Douglas Jay Kiviat, M.D. to pay the Board the costs of probation monitoring, if placed on probation; and

4. Taking such other and further action as deemed necessary and proper.

DATED: August 17, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
Complainant

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